

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 03-2621

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Lloyd R. Holmes,

Appellant,

v.

Elaine Chao, Secretary of Labor,

Appellee.

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Appeal from the United States  
District Court for the  
Eastern District of Missouri

[UNPUBLISHED]

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Submitted: February 4, 2004

Filed: March 17, 2004

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Before BYE, McMILLIAN, and RILEY, Circuit Judges.

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PER CURIAM.

Lloyd Holmes appeals from the final judgment entered in the District Court<sup>1</sup> for the Eastern District of Missouri dismissing his 5 U.S.C. § 552, Freedom of Information Act (FOIA) action. For reversal Holmes argues, among other things, that the district court should have considered his “Motion for Trial by Jury” before entering judgment against him; he explains that the motion was filed several days

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<sup>1</sup>The Honorable Stephen N. Limbaugh, United States District Judge for the Eastern District of Missouri.

after entry of judgment because initially he sent it to the wrong address. For the reasons discussed below, we affirm the judgment of the district court.

Having carefully reviewed the record, we find that the district court properly dismissed Holmes's FOIA action for failure to exhaust administrative remedies, see Brumley v. United States Dep't of Labor, 767 F.2d 444, 445 (8th Cir. 1985) (*per curiam*), as defendant's un rebutted evidence showed that Holmes failed to exhaust his administrative remedies. As to the postjudgment "Motion for Trial by Jury," the district court clearly considered and denied the motion, and nothing in or attached to the motion casts doubt on the propriety of the district court's dismissal of Holmes's FOIA action as unexhausted.

We have considered and find meritless Holmes's remaining arguments. Accordingly, the judgment is affirmed.

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